

**Letter of Findings: 01-20191519
Individual Income Tax
For the Tax Years 2006-2010**

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

HOLDING

The Department's proposed assessments were issued more than three years after Taxpayer filed the respective tax returns. Therefore, the proposed assessments are untimely.

ISSUE

I. Tax Administration - Statute of Limitations.

Authority: IC § 6-8.1-5-1; IC § 6-8.1-5-2; *Indiana Dep't. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2011); *Lafayette Square Amoco, Inc. v. Indiana Dep't. of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2011).

Taxpayers protest the imposition of Indiana individual income tax for the 2006-2010 tax years.

STATEMENT OF FACTS

Taxpayers were subject to a Federal review of their 2006-2010 individual income taxes. As a result of that review, Taxpayers filed Form IT-40X amended returns with the Indiana Department of Revenue ("Department"). These returns were signed by Taxpayers on January 11, 2016 and the Department recorded them as received on January 21, 2016. The Department issued a proposed assessment to Taxpayers for 2006 individual income tax on September 27, 2019. Shortly thereafter, the Department issued proposed assessments for 2007-2010 individual income taxes. Taxpayers timely protested each of these assessments and an administrative hearing was held. This letter of findings results. Additional facts will be provided as necessary.

I. Tax Administration - Statute of Limitations.

DISCUSSION

Taxpayers argue that the proposed assessments occurred more than three years after the statute of limitations and are therefore unenforceable.

As a threshold issue, all tax assessments are *prima facie* evidence that the Department's claim for unpaid tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1(c); *Indiana Dep't. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2011); *Lafayette Square Amoco, Inc. v. Indiana Dep't. of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Consequently, the taxpayer is required to provide documentation explaining and supporting its challenge that the Department's position is wrong. Poorly developed and non-cogent arguments are subject to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2011).

IC § 6-8.1-5-2(a) provides a limitation on the Department's assessment authority as follows:

[T]he department may not issue a proposed assessment under section 1 of this chapter more than three (3) years after the latest of the date the return is filed, or . . . [t]he due date of the return.

Generally, the Department receives six additional months to issue a proposed assessment when a taxpayer's

federal income tax is modified. [IC 6-8.1-5-2\(i\)](#). The proposed assessments in this case were issued more than three years after the filing of the IT-40X amended returns. The Department did not allege fraud in this case and the Taxpayers did not fail to file, or file blank returns, so no extenuating circumstances apply to extend the statute of limitation.

Because the Department issued proposed assessments more than three years after the IT-40X amended returns were filed, the assessments are outside of the statute of limitations.

FINDING

Taxpayers are sustained.

September 18, 2020

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